

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2000

Application or Docket Number

09915472

CLAIMS AS FILED - PART I

(Column 1) (Column 2)

TOTAL CLAIMS		
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	26 minus 20 =	6
INDEPENDENT CLAIMS	7 minus 3 =	5
MULTIPLE DEPENDENT CLAIM PRESENT		<input type="checkbox"/>

SMALL ENTITY
TYPE

OTHER THAN
OR SMALL ENTITY

RATE	FEES	RATE	FEES
BASIC FEE	355.00	OR BASIC FEE	710.00
X\$ 9=	54	OR X\$18=	108
X40=	200	OR X80=	400
+135=		OR +270=	
TOTAL		OR TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2

10/14/05 CLAIMS AS AMENDED - PART II

(Column 1) (Column 2) (Column 3)

AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	26	Minus	26
Independent	7	Minus	7	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

SMALL ENTITY OR OTHER THAN
SMALL ENTITY

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	26	Minus	26
Independent	7	Minus	7	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
	Total	26	Minus	26
Independent	7	Minus	7	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM			<input type="checkbox"/>	

RATE	ADDI- TIONAL FEE	RATE	ADDI- TIONAL FEE
X\$ 9=		OR X\$18=	
X40=		OR X80=	
+135=		OR +270=	
TOTAL ADDIT. FEE		OR TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."
 The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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PTO/SB/28 (08-04)

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TERMINAL DISCLAIMER TO OBLViate A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)
NUTRI.018RA

In re Application of: Mark F. McCarty

Application No.: 08/912,472

Filed: July 24, 2001

For: CHROMIUM/BIOTIN TREATMENT OF TYPE II DIABETES

BEST AVAILABLE COPY

The owner", Nutrition 21, Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 5,789,401 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. The undersigned is an attorney or agent of record. Reg. No. 29,655

Signature

December 5, 2005

Date

Ned A. Isachsen
Typed or printed name619-235-6550
Telephone Number

Terminal disclaimer fee under 37 CFR 1.20(d) included.

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